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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 6, 2002

The Honorable Michael K. Powell
Chairman, Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Additional comments RE: 800 Mhz Reconfiguration WT 02-55
Comments responding to the IRFA contained in the NPRM 02-81

Dear Mr. Chairman:

On November 21, 2001, Nextel, Inc. submitted to the Commission a white paper which proposes to realign the 800 Mhz land mobile radio band "to rectify commercial mobile radio – public safety interference and allocate additional spectrum to meet critical public safety needs."¹ Several interested private land mobile representatives subsequently filed a letter with the Commission outlining the impact of this proposal on business and industrial land transportation (B/ILT) users.² This letter serves to support the views of the aforementioned parties in this letter by elaborating on the damage that our very small business and others like it will suffer as a result of Nextel's proposal.

Our business was built utilizing a loan guaranteed by the SBA and we are continuing to expand it today. We need a stable and predictable regulatory atmosphere in order to survive and continue to offer value to the public we serve. Our company operates on 44 800 Mhz CMRS channels in the Appalachian region of Virginia and West Virginia at 15 sites. We are in the final stage of retuning to meet the Commission's requirements pursuant to rule section 90.699. This has been a very long and arduous process for us and we have done this with the expectation that we would be able to continue to meet our community's communication needs, public and private. We are located in an area that has little public safety 800 mhz infrastructure, experienced no interference to what is there and has vast un-met communications needs. The school districts we serve have just begun to enjoy the safety and utility their trunked 800 mhz radios provide, after years of dependence on CB radios! A return to the use of CB radios on the school buses and Head Start vans will cause a public outcry of anger here.

¹ *Promoting Public Safety Communications: Realigning the 800 MHz Land Mobile Radio Band to Rectify Commercial Mobile Radio – Public Safety Interference and Allocate Additional Spectrum to Meet Critical Public Safety Needs*, submitted to the Federal Communications Commission by Nextel Communications, Inc., on November 21, 2001.

² Letter from Aeronautical Radio, Inc. (ARINC), American Association of Railroads (AAR), American Petroleum Institute (API), Forest Industries Telecommunications (FIT), Industrial Telecommunications Association, Inc. (ITA), MRFAC, Inc. (MRFAC), and United Telecom Council (UTC) to Michael K. Powell, Chairman, Federal Communications Commission, dated December 20, 2001.

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Nextel's proposed solution includes relocating B/ILT and CMRS licensees *at their own cost* to 700 Mhz or 900 Mhz spectrum; recommending that they otherwise become secondary to public safety on a non-interference basis. We are causing no interference to public safety communications in our region. To the contrary, we provide service to public safety, local governments, school districts, industries, businesses and individuals. We have been able to provide radio and interconnected service to school bus districts and Head Start agencies that have not been able to have any radio service before. We are far from the urban centers that have severe spectrum shortages and we serve areas that do not have reliable cellular service, and in some cases, service at all. What our subscribers truly need is basic verbal and data communications. Our 800 Mhz trunked radio network provides that to these mountainous communities in a form that is cost-effective and that they can afford.

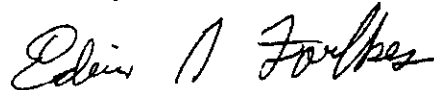
Our business would actually be subject to bankruptcy by this relocation, since 800 Mhz CMRS trunking is all that we do. I, personally, even mortgaged my home to build this network of towers and any out of band relocation would simply devastate me. Such a transition would render all our hardware useless and destroy the value of the subscriber's equipment as well. As our tower network is located in the middle of the mountains of Appalachia, most of our subscribers would be unable to afford the replacement cost of ANY new equipment and would be forced to abandon the use of radio. In a region such as ours, trunked radio in the 800 Mhz band will be a viable and valuable public asset for years to come without causing interference to others or constraining their growth. Moreover, the proposed relocation spectrum either has no equipment available yet (700 Mhz) or is already overcrowded (900 Mhz). And these possibilities are the "best case scenario," since Nextel's current licensing assignments in these bands are not available on a nationwide basis.

We believe, based on our experience, that the best solution will be to address interference on a case by case basis within the 800 Mhz band and to keep track of these reported cases. It appears that no proposal will be able to eliminate interference on a nationwide level and a case by case approach will have to be followed anyway. Better documentation of these cases is essential, if the interference is to be reduced and eliminated. Retuning of severely affected areas can more easily be accomplished if interference is dealt with by following best practice guides on a case by case basis.

If a nationwide solution to this problem must be implemented, we believe the NAM proposal is the best overall solution along with enforcement of 90.173(b) and the reservation of 700 mhz for public safety. There will be places where there can only be negotiated solutions, like boarder areas, and enforcement is an essential component if negotiations are to be concluded in interference relief. We have worked to comply with rule section 90.699 and, if the NAM proposal is implemented we can do the same thing again. We believe that, while that process was and is a burden to us, we can retune yet again through a similar process and the costs for us to do so would be no more than the \$60,000 that the first retuning cost. The reservation of 700 mhz for public safety seems to us to be a real opportunity that will enable standards of intercommunication and operation to finally be implemented for public safety on a nationwide basis, while allowing the existing systems to continue to function.

We urge the Commission to reject Nextel's proposal, as it is currently drafted. This action will be detrimental to the American business community; specifically, our nation's daily business communications. It is easy to see that acceptance of this proposal would have an adverse effect on the daily business that Congress and the White House are seeking to support to keep the economy alive. The private wireless industry is fully committed to working with the Commission to find a way to minimize public safety interference. We just ask that the solution not result in the wholesale eviction of private wireless systems from the 800 Mhz band.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edwin N. Fowlkes". The signature is fluid and cursive, with the first name "Edwin" being more prominent.

Edwin N. Fowlkes, President
Business Autophones Inc.
RFD 1 Box 467
Tazewell, VA 24651

cc: Commissioner Kathleen Q. Abernathy
Commissioner Kevin J. Martin
Commissioner Michael J. Copps
Marlene H. Dortch, Secretary
The Honorable Rick Boucher